

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Stephen Gyor AICP, Case Manager
JL Joel Lawson, Associate Director Development Review
DATE: November 24, 2015

SUBJECT: BZA Case 19119 - request to convert an existing two story rowhouse into a three-story apartment house containing three residential units in the R-4 District at 549 Park Road NW

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **denial** of the following variance:

- § 401.3 Lot Area (2,700 square feet required for three units by special exception; 2,691 square feet existing).

Although the amount of relief may seem small, the recent Zoning Commission action to amend the R-4 regulations set a definitive standard for conversions, which this lot does not meet. The Application did not adequately explain what unique characteristic of the property creates a practical difficulty in this case for the development of this site in a conforming manner (a flat).

However, if the applicant were to make a case acceptable to the BZA for the variance relief above, then the Office of Planning **would not oppose** the following special exception and variances:

- § 336 Special Exception for the conversion of a Residential Structure to an Apartment House, subject to conditions noted in this report;
- § 406 Courts (11 feet required, 7 feet 6.5 in. proposed); and
- § 2001.3 Additions to a Nonconforming Structure.

II. LOCATION AND SITE DESCRIPTION

Address	549 Park Road NW (the “Subject Property”)
Applicant	Warder LLC (the “Applicant”)
Legal Description	Square 3037, Lot 48 Square 3037 is bounded by Warder Street NW to the east, Park Road NW to the south, Georgia Avenue NW to west, and Newton Place NW to the north.
Ward	1

Lot Characteristics	The lot is 113 feet deep and 29 feet wide along the Park Road NW frontage. The lot narrows to 19 feet at the rear. A 15 foot alley is located to the north. The lot is developed with a two-story rowhouse (currently vacant), similar to other adjacent lots.
Zoning	R-4 - Permits matter-of-right development of single-family residential uses (including detached, semi-detached, row dwellings, and flats), churches and public schools. Conversion of an existing rowhouse to an apartment house is permitted by special exception, provided the lot has 900 square feet of area per unit.
Historic District	NA
Adjacent Properties	Adjacent properties include two story semi-detached dwellings.
Surrounding Neighborhood Character	The surrounding neighborhood is characterized by semi-detached dwellings, rowhouses, and multifamily buildings.

III. APPLICATION IN BRIEF

The Applicant proposes to convert a vacant, two-story, semi-detached residence into a three-story apartment house, without side yards, and with three residential units. The Applicant proposes to construct a rear addition and third-story addition. The third-story addition would be set back six feet from the front façade, and the existing porch would be retained. The proposed structure would have one-bedroom units on the cellar and first floor. The second and third floor of the structure would include a three-bedroom family-sized unit. The lot currently includes a non-conforming side yard which would be converted to a court through the proposed addition.





IV. ZONING REQUIREMENTS and RELIEF REQUESTED

R-4 Zone	Regulation	Existing	Proposed	Relief
Height § 400	35 ft. max.	21 ft. 9 in.	34 ft. 3 in.	None required
Lot Width § 401	30 ft. min.	19 ft. – 29 ft.	19 ft. – 29 ft.	None required
Lot Area § 401	2,700 sf.	2,691 sf.	2,691 sf.	Relief required
Floor Area Ratio § 402	None prescribed	NA	NA	None required
Lot Occupancy § 403	60% max.	36.49%	49%	None required
Rear Yard § 404	20 ft. min.	40 ft.	30 ft.	None required
Side Yard § 405	8 ft. min.	7 ft. 6.5 in.	NA	None required
Court § 406	11 ft. min	NA	1 ft. 1 in.	Relief required

V. OFFICE OF PLANNING ANALYSIS

a. Variance Relief from § 401 (Lot Area)

i. Exceptional Situation Resulting in a Practical Difficulty

The Applicant has not demonstrated any acceptable or relevant existing situation resulting in a practical difficulty. The Applicant states that the practical difficulty pertaining to the lot area directly relates to the lot’s unusual angled lot line – i.e., if the angled lot line were perpendicular to Park Road NW, the lot would meet the minimum 2,700 square feet for three units as required by § 401.3. However, neither the pre-existing condition of the lot nor the regulations themselves, create a nexus with the practical difficulty of developing this lot in a conforming manner. The slightly irregular shape of the lot in and of itself does not prevent the addition of a third unit – instead it is that the size of the lot does not meet the minimum area as defined by the zoning regulations.

The application states that the proposed relief would comprise a *de minimis* nine square feet, or three square feet per unit. Prior to Zoning Commission Case 14-11 (R-4 Conversions), the Applicant could have requested a minimum lot area waiver from the Zoning Administrator through the minor flexibility provision of § 407.1. However, the Commission determined that the regulations for the R-4 zone should not permit minor flexibility for the conversion of rowhouses to apartment houses.

ii. No Substantial Detriment to the Public Good

The Office of Planning does not anticipate significant detriment to the public good – OP supports the rehabilitation of vacant structures and the expansion of the housing supply. Further, the proposed addition would be set back six feet from the existing front façade. The front porch would remain, and should be required in the Order (if the case is approved) to be retained, helping to preserve the character of the existing structure.

The proposed addition should not have a substantial detrimental impact on neighboring properties. The immediately adjoining house to the east, 547 Park Road NW, would continue to be separated from the proposed addition by its existing side yard. The light available to the immediate house to the west, 551 Park Road NW, would likely be impacted during the morning hours.

iii. No Substantial Harm to the Zoning Regulations

Granting variance relief would impair the recently articulated intent and integrity of the zone plan as no uniqueness of property exist which immediately relates to the practical difficulty for the Applicant.

Based on this, the Office of Planning would recommend denial of the application. However, if the applicant provides variance relief justification acceptable to the Board, OP analysis of the additional relief required for this proposal follows.

b. Special Exception Relief pursuant to § 336

- 336 Conversion of a residential building existing prior to May 12, 1958, to apartment houses (R-4).**
- 336.1 Conversion of an existing residential building existing prior to May 12, 1958, to an apartment house shall be permitted as a special exception in the R-4 District if approved by the Board of Zoning Adjustment under § 3104, subject to §§ 336.2 through 336.11.*
- 336.2 The maximum height of the residential building and any additions thereto shall not exceed thirty-five feet (35 ft.), except that the Board of Zoning Adjustment may grant a special exception from this limit under § 3104, subject to §§ 336.3 through 336.11.*

The proposed structure would have a height of 34 feet 9 inches and would comply with the height requirement.

- 336.3 *The fourth (4th) dwelling unit and every additional even number dwelling unit thereafter shall be subject to the requirements of Chapter 26, Inclusionary Zoning, including the set aside requirement set forth at § 2603.9.*

The proposed structure would have three units, and therefore this subsection is not applicable.

- 336.4 *There must be an existing residential building on the property at the time of filing an application for a building permit.*

The Subject Property includes an existing residential building on the Property and would be located there at the time of filing an application for a building permit.

- 336.5 *There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit.*

The Applicant seeks to construct three units, which requires 2,700 square feet of land area. The Property is 2,691 square feet, which is nine feet short of the requirement. The Applicant is seeking a variance from this provision.

- 336.6 *Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent on an adjacent property required by any municipal code.*

The adjacent properties located at 551 and 547 Park Road NW do not have chimneys or other external vents that would appear to be impacted by this proposal.

- 336.7 *Any addition, including a roof structure or penthouse, shall not interfere with the operation of an existing or permitted solar energy system on an adjacent property, as evidenced through a shadow, shade, or other reputable study acceptable to the Zoning Administrator.*

The adjacent properties located at 547 and 551 Park Road do not have existing solar energy systems.

- 336.8 *A roof top architectural element original to the house such as a turret, tower, or dormers shall not be removed or significantly altered, including changing its shape or increasing its height, elevation, or size.*

The existing structure includes a roof top architectural element above the second floor windows. The third floor addition to the property would be set back six feet from the front façade and therefore, the roof top architectural element would remain undisturbed. OP also supports the Applicant's retention of the front porch, also a defining feature of this streetscape. Should the BZA vote to approve this proposal, a

condition of that approval, written into the Order, should be the retention or replacement of the front porch as currently proposed.

336.9 *Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:*

- (a) *The light and air available to neighboring properties shall not be unduly affected;*
- (b) *The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and*
- (c) *The conversion and any associated additions, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street or alley.*

The Office of Planning does not anticipate that the addition would have a substantially adverse effect on the light and air, or the use or enjoyment, of any abutting or adjacent dwelling or property, particularly since the addition does not exceed by-right allowances within the zone. The proposed addition would extend to the rear beyond the extent of the existing adjacent structures and would likely have some impact to the light of the neighboring properties. However, the neighboring property to the east, 547 Park Road NW, would continue to be separated by its side yard. Further, the proposed addition would not include additional windows beyond the existing bay window, which should contribute to the privacy of the neighboring property.

The proposed addition would include a six-foot setback from the existing front façade and would retain the existing porch. As such, the proposed addition should not visually intrude upon the character, scale, or pattern of houses along Park Road NW.

336.10 *In demonstrating compliance with § 336.9 the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the conversion and any associated addition to adjacent buildings and views from public ways.*

The Applicant makes sufficient use of graphical representations, such as plans, photographs, or elevation and section drawings.

336.11 *The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties, or to maintain the general character of a block.*

No special treatment is requested at this time, other than a requirement that the front porch be retained, as proposed by the applicant.

c. Variance Relief from § 406 (Courts)

i. Exceptional Situation Resulting in a Practical Difficulty

The proposed addition converts an existing nonconforming side yard into a nonconforming court. The existing nonconforming side yard is unique and contributes to the practical difficulty – providing a conforming court would require significant demolition of the existing structure.

ii. No Substantial Detriment to the Public Good

The Office of Planning does not anticipate significant detriment to the public good. The Subject Property's existing side yard would not be altered for most of its length and the neighboring property to the east, 547 Park Road NW, would continue to be separated by its existing side yard. Further, the proposed addition would not include additional windows beyond the existing bay window, which should contribute to the privacy of the neighboring property.

iii. No Substantial Harm to the Zoning Regulations

Substantial harm to the regulations is not anticipated since the proposed nonconforming court would provide for adequate light, air and privacy. A seven foot six inch court would be maintained and should meet the intent of the zoning regulations.

VI. COMMUNITY COMMENTS

As of this writing, no comments from the ANC or the immediate neighbors have been submitted to the record.